

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JUAN BARELA, and LYNN BARELA,

Plaintiffs,

v.

CITY OF WOODLAND (MAYOR) et al.,

Defendants.

Case No. C06-5431 RBL

ORDER ON PLAINTIFFS' MOTIONS

THIS MATTER is before the court on the following Motions, all filed by the Plaintiffs: Motion to Certify and for Judgment for Default [Dkt. # 11]; Motion to Appoint Counsel [Dkt. #s14 and 17]; Motion to Proceed in forma pauperis [Dkt. # 18]; and Motion for Joinder of Person as Indispensable party [Dkt. # 25].

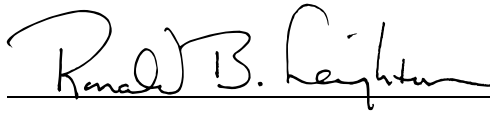
Plaintiffs' Motion for a Default Judgment is DENIED as the Defendants have answered.

Under 28 U.S.C. § 1915(e)(1), the court may request an attorney to represent any person unable to afford counsel. The court may appoint counsel in exceptional circumstances. *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). To find exceptional circumstances, the court must evaluate the likelihood of success on the merits and the ability of the petitioner to articulate the claims pro se in light of the complexity of the legal issues involved. *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). A review of the Plaintiffs' Complaint and the prior litigation involving the same incident demonstrates that the requisite exceptional circumstances are not present. Plaintiffs cannot demonstrate that they have a likelihood of success on the merits. Plaintiffs' Motions for the appointment of Counsel are DENIED.

1 Plaintiffs' Motion to Proceed in forma pauperis is DENIED, as they paid the required filing fee at the
2 time this action was commenced.

3 Finally, Plaintiffs' Motion to Join as an indispensable party Dr. Ellis Johnson is DENIED, as a virtually
4 identical claim against Dr. Johnson, based on the same facts alleged here, was previously DISMISSED with
5 prejudice. *See* Cause No. C05-5785RBL, Dkt. #26.

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7 DATED this 30th day of NOVEMBER, 2006.

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10 RONALD B. LEIGHTON
11 UNITED STATES DISTRICT JUDGE
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